



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,924	02/01/2000	Jeffry Jovan Philyaw	PHLY-24,913	4127

25883 7590 05/23/2002

HOWISON, THOMA & ARNOTT, L.L.P  
P.O. BOX 741715  
DALLAS, TX 75374-1715

EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/494,924

Applicant(s)

PHILYAW ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 22 it is unclear whether the message packet includes both the unique value and the input device ID or just the device ID.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz et al '048 in view of Byford.

Hudetz et al. disclose providing an input device 120 at the first location on the global communication network having associated therewith a unique input device ID ( the address of every computer is notoriously well know to be transmitted by a PC to a server);

scanning a product code disposed on a product with the input device (col. 11, lines 31- 32), which product code is representative of the product in commercial transactions, the step of scanning operable to extract the information contained in the product code to provide a unique value as an output (numeric address encoded in bar code) ;

associating the unique value with the unique input device ID ; and  
in response to the step of scanning and the step of associating,

Art Unit: 3627

connecting the first location to the second location. (Hudetz et al. Discloses in col. 11 lines 4-10 that once the unique value i.e. the numeric address encoded in the bar code is extracted, it is associated by the service provider with the first location computer.)

However, Hudetz et al. '048 does not disclose the input device having a unique value.

Byford does disclose this by providing a client ID associated with the input device. It would be obvious to modify the Hudetz et al. to include the Client ID of Byford because this would eliminate the need to identify the source of the inquiry and thus save time and steps.

Re claims 23,24, 25,27: Hudetz et al disclose in response to the step of scanning and the step of associating, accessing a database having stored therein a plurality of unique values for a plurality of products, each associated with routing information over the global communication network to one of the plurality of second locations (see database, 60 all records having UPC fields - col. 8, lines 47-67, and col.9 lines 1-5);

comparing the output unique value with the stored unique values in the database; and if a match exists between the output unique value and any of the stored unique values: (Official notice is taken with respect to the old and notorious use of comparing two values in a binary system to determine if a match exists);

retrieving from the database the associated routing information to the second location, and connecting the first location with the second location on the global communication network in accordance with the retrieved routing information.- (Hudetz et al. Discloses in col. 11 lines 4-10 that once the unique value i.e. the numeric address encoded in the bar code is extracted, it is associated by the service provider with the first location computer.)

Re claim 26: accessing a remote location on the global communication network at an intermediate node thereon; forwarding the unique value and unique device ID to the intermediate node; (see col. 11 lines 6-7, remote server 128 is an intermediate node);

wherein the database is disposed at the intermediate node; retrieving the associated routing information from the database in the event of a positive match and forwarding the retrieved routing information back to the first location and connecting the first location to the second location in accordance with the retrieved information. (Where the database is located is not considered to be of any patentable weight given that the speed of the internet and the ability of data to travel on it at great speeds regardless of location makes this limitation obvious. Furthermore, official notice is taken with respect to the notoriously well known practice of locating data files remotely. Notwithstanding, col. 7, lines 57-64 suggest that the database 60 be disposed in a number of locations including one that is intermediately disposed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Byford. The client ID associated with the bar code scanner is read as being an input device. Re claims 26,27 the term "intermediate" is deemed relative to a given point of reference.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

*Joseph A. Fischetti*  
*Primary Examiner*